



Howard A. Janet, P.C.\* | Kenneth M. Suggs • | Adam P. Janet\*§±☆  
Dov A. Apfel\*± | Giles H. Manley, M.D.\* | Gerald D. Jowers, Jr. • | Seth L. Cardeli \*§≠

Patrick A. Thronson\*‡§ | Andrew S. Janet\*§ | Matthew M. White\*±°≡  
Natalie C. D'Antonio\* | Brenda A. Harkavy\*§

OF COUNSEL

Richard M. Serbin Δ° | John C. Hensley, Jr. ° | Steven J. German §≠± | Joel M. Rubenstein §≠  
Frederick W. James ¶ | Brian D. Ketterer Δ | Justin A. Browne\* | Sharon L. Van Dyck §

BAR MEMBERSHIPS

\*Maryland | • South Carolina | ± District of Columbia | Δ Pennsylvania | ≡ Virginia  
§ Minnesota | ‡ Illinois | ¶ Iowa | ° North Carolina | § New York | ≠ New Jersey

IN MEMORIAM

☆ Adam P. Janet, Esq. | 1989-2019

April 14, 2020

**VIA ECF AND E-MAIL**

Honorable Joshua D. Wolson  
United States District Court  
for the Eastern District of Pennsylvania  
601 Market Street  
Philadelphia, PA 19106

RE: Russell, et al. v. Educational Commission for Foreign Medical Graduates  
No. 2:18-cv-05629-JDW

Dear Judge Wolson:

This letter is submitted pursuant to the telephonic status conference held in the above-entitled matter on March 31, 2020, this Court's April 1, 2020 Order (ECF No. 62), as well as Defendant Educational Commission for Foreign Medical Graduates' Motion for Limited Stay ("Motion") (ECF No. 60).

On April 9, 2020, class counsel and counsel for Defendant held a conference call in an attempt to resolve outstanding issues pertaining to case management during the pendency of Defendant's Rule 23(f) Petition and possible appellate proceedings. These issues were raised in Defendant's Motion and discussed with the Court on March 31.

As a result of the conference call, the parties have agreed to the following:

- Class counsel will proceed with issuing subpoenas for patient names and addresses to health care institutions where Oluwafemi Igberase a/k/a Charles Akoda is believed to have encountered patients after he enrolled in a postgraduate medical education program at Howard University in 2007, to

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MARYLAND OFFICE

Executive Centre at Hooks Lane | 4 Reservoir Circle, Suite 200 | Baltimore, Maryland 21208  
410-653-3200 | Fax 410-653-9030 | 1-877-692-3862  
info@JJSjustice.com | JJSjustice.com

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ascertain the membership of the class for purposes of issuing notice. Pursuant to Rule 45, class counsel will submit proposed subpoenas to defense counsel before serving them on the health care providers, to reduce or eliminate disputes with Defendant regarding their content.

- The parties will work collaboratively during the pendency of Defendant's Petition for Permission to Appeal—and, should the Petition be granted, during the appellate process itself—to define areas of agreement on a potential proposed form of notice.
- If Defendant's Rule 23(f) Petition is denied, or the Third Circuit affirms the Court's Order Granting Plaintiffs' Motion for Class Certification, the parties will submit to the Court a proposed case management plan for the notice process and motion practice, within 14 days of the date of said denial or affirmance. One objective of the proposed case management plan will be to have summary judgment briefing occur concurrently with notice and opt-out, to the extent appropriate and possible, such that any dispositive motions will be fully briefed and ripe for resolution shortly after the opt-out period has ended.
- The parties are currently meeting-and-conferring with respect to one discovery issue; should they be unable to resolve the matter themselves, this Order does not preclude Plaintiffs from bringing the matter before the Court, with Defendant reserving all rights and objections thereto, including the ripeness or timeliness of any such request.

The parties believe these mutual understandings resolve the case management issues anticipated to arise while an appeal is pending. A revised, stipulated Proposed Order Granting Defendant's Motion for Limited Stay that reflects the points of agreement is enclosed with this letter.

If the Court believes a status conference should still proceed on April 30, as discussed on the March 31 call, the parties would appreciate receiving an order to that effect from the Court. Otherwise, the parties believe that the April 30 status conference can be cancelled.

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Counsel for Defendant has reviewed and approves the content and submission of this letter. Should the Court have any questions or require additional information, please do not hesitate to contact counsel. The parties appreciate the Court's consideration and assistance in this matter.

Respectfully submitted,

/s/ Patrick Thronson  
Patrick A. Thronson  
*One of the attorneys for the class*

Enclosure

cc: Brian W. Shaffer, Counsel for Defendant

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MONIQUE RUSSELL, JASMINE RIGGINS,  
ELSA M. POWELL, and DESIRE EVANS,

Plaintiffs,

v.

EDUCATIONAL COMMISSION FOR  
FOREIGN MEDICAL GRADUATES,

Defendant.

Civil Action No. 18-5629

Honorable Joshua D. Wolson

**[PROPOSED] ORDER**

**AND NOW**, this \_\_\_ day of \_\_\_\_\_ 2020, upon consideration of Defendant Educational Commission for Foreign Medical Graduates' Limited Motion to Stay (ECF No. 60), the March 31, 2020 status conference, and the Parties' April 14, 2020 letter proposing a case management schedule, **IT IS HEREBY ORDERED** as follows:

1. The Limited Motion to Stay is **GRANTED in part**;
2. All proceedings and deadlines, including, but not limited to, the distribution of notice to class members, approval of a notice plan, and deadlines for the filing of summary judgment or *Daubert* motions in this case are hereby **STAYED** pending the resolution of Defendant's Rule 23(f) Petition for Permission to Appeal to the United States Court of Appeals for the Third Circuit;
3. Plaintiffs' counsel are permitted to issue subpoenas for patient names and addresses to health care institutions where John Nosa Akoda is believed to have encountered patients after he enrolled in a postgraduate medical education program at Howard University in 2007, provided

that Plaintiffs' counsel complies with Rule 45 of the Federal Rules of Civil Procedure with respect to such subpoenas;

4. The parties are currently meeting-and-conferring with respect to one discovery issue; should they be unable to resolve the matter themselves, this Order does not preclude Plaintiffs from bringing the matter before the Court, with Defendant reserving all rights and objections related thereto, including the ripeness or timeliness of any such request.

5. If Defendant's Rule 23(f) Petition is denied or the Third Circuit affirms this Court's certification order (ECF 58), the Parties shall submit a proposed case management plan for the notice process and motion practice, including a dispositive motions briefing schedule whereby any dispositive motions are fully briefed and ripe for resolution by or shortly after the end of the opt-out period; and

6. The status conference set for April 30, 2020 is cancelled.

BY THE COURT:

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J.